

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE	
In re application of: Xiangdong Chen, et al	Date: September 13, 2006
Serial Number: 10/622,477	Examiner: Ngan V. Ngo
Filed: 07/18/2003	Group Art Unit: 2818
Title: VERTICAL MOSFET WITH DUAL WORK FUNCTION MATERIALS	IBM Corporation D/18G, B/321, Zip 482 2070 Route 52 Hopewell Junction, NY 12533-6531

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated September 7, 2006.

The Examiner in the aforementioned Office Action has required restriction under 35 U.S.C. § 121, stating that the claims belong to:

GROUP I, Claims 1-7, drawn to a semiconductor device, and

GROUP II, Claims 8-15, drawn to a process of making a semiconductor device.

Applicants traverse the aforementioned Restriction Requirement for the following reason:

The Restriction Requirement justifies the restriction by vaguely stating that “the structure as claimed can be used to make other and materially different product”, but fails to list any such “other and materially different products”. Thus, Applicants deem that both Groups I and II are one and the same, and they do not fit the criteria for restriction. Accordingly, it is believed that the restriction requirement should be withdrawn.

Applicants state further that the Restriction Requirement does not demand any additional search simply because both classes, namely, Class 257, subclass 296, and Class 438, subclass 1+ include patents that address respectively: i) s/c devices, ii) process of manufacturing said s/c devices, and iii) process of fabricating the s/c device together with the s/c device itself in a single patent. Thus, in order to determine whether the present invention has already been the subject matter of an issued patent, both of the above stated classes need to be searched.

Notwithstanding the foregoing arguments, Applicants elect to prosecute the invention of GROUP I, consisting of Claims 1-7 drawn to the semiconductor structure, and withdraw from consideration the claims forming GROUP II, as being drawn to non-elected invention, without prejudice to the Applicants' right to file a Divisional or Continuation or Continuation-in-Part Patent Application for the withdrawn claims.

Respectfully submitted,
XIANGDONG CHEN, ET AL.

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